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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,279	10/20/2003	Thomas L. Ingram	200625-1001	2926
38406	7590	02/28/2006	EXAMINER	
MICHAEL A. O'NEIL, P.C. 5949 SHERRY LANE, SUITE 820 DALLAS, TX 75225			BRYANT, DAVID P	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/689,279

Applicant(s)

INGRAM, THOMAS L.

Examiner

David P. Bryant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 9-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>081505 &amp; 012306</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I (claims 1-12) in the reply filed on February 2, 2006, is acknowledged. It is noted that non-elected claims 13-16 have been canceled by applicant.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claims 1, 2, 6-8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanders (U.S. Patent No. 5,430,929).**

Claim 1: Sanders teaches a flexible connector 30 (Figure 1) comprising:

a length of corrugated tubing 34 (Figure 6) having a distal end 34' (Figure 7);  
an end piece 42 (Figure 7) having a proximal end 52;  
a length of polymeric tubing 39 surrounding the distal end of the length of corrugated tubing and the proximal end piece (Figure 8); and  
a sleeve 50 surrounding the length of polymeric tubing, the proximal end of the end piece, and the distal end of the length of corrugated tubing for permanently retaining the

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proximal end of the end piece engagement with the distal end of the length of corrugated tubing (Figure 9 shows the completed, permanently assembled configuration).

The recitation that the polymeric tubing surrounds the corrugated tubing and end piece “for initially retaining the proximal end of the end piece in engagement with the distal end of the length of corrugated tubing” is a product-by-process limitation that is of no patentable significance to the claim, so long as the prior art teaches the resulting structure as claimed. Such is the case with the Sanders reference.

Claim 2: In Figure 3, note corrugations 54 on end piece 42.

Claim 6: Note crimped portion 48 of sleeve 50 that is formed in Figures 4 and 5.

Claim 7: Note mesh tubing 31 in Figures 7-9.

Claim 8: In Figure 3, note corrugations 54 on end piece 42.

Claim 12: Note crimped portion 48 of sleeve 50 that is formed in Figures 4 and 5.

#### *Allowable Subject Matter*

**Claims 3-5 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or fairly suggest the additional claimed feature of the polymeric tubing engaging both the corrugations of the corrugated tubing and the end piece.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Bryant whose telephone number is 571-272-4526. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David P. Bryant  
Primary Examiner  
Art Unit 3726

dpb  
2/21/06